

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
July 8, 2003**

PLACE: Room 206  
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:  
Damanti, Spain, Forman, Conze, Kenny, Bigelow

STAFF ATTENDING: Ginsberg, Keating

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Chairman Damanti read the following agenda item:

**Continuation of Public Hearing regarding Flood Damage Prevention Application #193, Anthony & Cynthia Lazzara, 184 Nearwater Lane.** Proposing to raze the existing residence, construct a new residence, and perform related site development activities within a regulated area. The subject property is located on the east side of Nearwater Lane approximately 325 feet south of its intersection with Shipway Road, and is shown on Tax Assessor's Map #55 as Lot #5, in the R-1 Zone.

Chairman Damanti noted that the Public Hearing regarding this matter had originally been opened on May 22nd and had been continued on June 24<sup>th</sup>. Attorney Gleason said that since that time they have obtained a revised variance from the Zoning Board of Appeals. The ZBA took that action on July 2, 2003. The revised variance from the ZBA allows the construction of the proposed house closer to the front property line than normally allowed and closer to the rear line than normally allowed. The modified plans enclose a portion of the south part of the house which was originally intended to be an open porch.

The Planning and Zoning Commission incorporated the Zoning Board of Appeals decision Calendar No. 60-2003 into the record.

There were no comments from any members of the public regarding the application. The following motion was made: That the Commission close the Public Hearing regarding this application. The motion was made by Mr. Bigelow, seconded by Mrs. Forman and unanimously approved.

**GENERAL MEETING**

The Commission members agreed to change the order of the agenda to accommodate the schedule of members of the Commission who had to leave the meeting early.

Chairman Damanti read the following agenda item:

**Coastal Site Plan Review #163-B, Flood Damage Prevention Application #170-B, Land Filling and Regrading Application #58-B, T. Mark & Margaret Maybell, 23 Tokeneke Trail.** Proposing construction of a new terrace on the east edge of the site to serve as a landing for a new floating dock; construction of a new gangway and float; installation of planting beds, regrading an existing slope to and create terraces; and perform related site development activities within regulated areas. The subject property is located on the south side of Tokeneke Trail approximately 1500 feet southwest of its intersection with Runkenhage Road, and is shown on Tax Assessor's Map #69 as Lot #38, R-1 Zone.

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The following motion was made: That the Commission members have all received a draft resolution prior to the meeting and they each have had an opportunity to review the draft resolution so that it is unnecessary to read the entire draft resolution aloud. The motion was made by Mr. Bigelow, seconded by Mr. Kenny and unanimously approved.

The following motion was made: That the Commission adopt the following resolution to grant the conditional approval to the project:

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ADOPTED RESOLUTION  
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Application Number: Coastal Site Plan Review #163-B  
Flood Damage Prevention Application #170-B  
Land Filling & Regrading Application #58-B

Tax Assessor's Map #69 Lot #38  
Street Address: 23 Tokeneke Trail

Name and Address of Property Owner: T. Mark & Margaret M. Maybell  
And Applicant: 9 Cross Road  
Darien, CT 06820

Name and Address of Applicant's Representative: McKee Patterson  
Austin Patterson Disston Architects, LLC  
376 Pequot Avenue  
Southport, CT 06490

Activity Being Applied For: Proposing construction of a new terrace on the east edge of the site to serve as a landing for a new floating dock; construction of a new gangway and float; installation of planting beds, regrading an existing slope and placement of cobble risers to create terraces on the slope; and perform related site development activities within regulated areas.

Property Location: The subject property is located on the south side of Tokeneke Trail approximately 1500 feet southwest of its intersection with Runkenhage Road.

Zone: R-1

Date of Public Hearing: June 24, 2003

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices

Dates: June 12 & 19, 2003

Newspaper: Darien News-Review

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Date of Action: July 8, 2003

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
July 17, 2003

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820 and 850 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application consists of four basic parts: 1) construction of a new terrace on the east edge of the site to serve as a landing for a new floating dock; 2) construction of a new gangway and float; 3) installation of planting beds, 4) regrading an existing slope and placement of cobble risers to create terraces on the slope.
2. As noted by the applicant's representative at the public hearing, repairs to the existing sea wall were approved by the State of Connecticut Department of Environmental Protection (DEP) on August 27, 2001, as part of COP-2001-094-MG. That approval is hereby incorporated by reference. There is a current pending application before DEP for a dock on the premises. It is likely that such a dock, if approved by DEP, will require review and action by the Planning and Zoning Commission sometime in the future.
3. The planting beds to be installed will consist of salt-tolerant plantings, as shown on the Landscape Plan. The proposal is to remove some existing lawn in the vicinity of the sea wall and create three planting beds. Only two trees are to be removed as part of this plan. According to the applicant, the plantings will provide a natural filtration system before runoff enters Long Island Sound.
4. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

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6. In accordance with the submitted information, the proposed activities will have no adverse impacts on flooding on adjacent properties. The proposed house location is not within the Flood Hazard Area.
7. The Commission finds that the proposed additions and alterations to the existing residence, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
8. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #163-B, Flood Damage Prevention Application #170-B and Land Filling and Regrading Application #58-B are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, planting and regrading shall be in accordance with the plans entitled:
  - Zoning Location Survey and Topographic Map prepared for T. Mark Maybell and Margaret M. Maybell, by Ryan and Faulds, LLC Land Surveyors, scale 1"=20', dated March 8, 2002.
  - Maybell Residence, 23 Tokeneke Trail by Oehme, van Sweden & Associates, Inc. Site Plan, Sheet L1.1 and Landscape Plan Sheet #L1.2., scale 1"=20', both dated May 18, 2003.
- B. There is a current pending application before DEP for a dock on the premises. It is likely that such a dock, if approved by DEP, will require submission of another application to, and action by, the Planning and Zoning Commission sometime in the future.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. Because of the minor nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- E. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.

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- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- G. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation of the approved plan within one year of this action (July 7, 2004). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan, as approved, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials, including the filing of a Special Permit form in the Darien Land Records, shall be submitted to the Planning and Zoning Department within 60 days of this action or this approval shall become null and void.

The motion was made by Mr. Kenny, seconded by Mr. Spain and unanimously approved.

The Commission members then agreed to modify the agenda to accommodate the members of the general public who were present.

Chairman Damanti read the following agenda item:

**Coastal Site Plan Review #183, Flood Damage Prevention Application #194, Sara Ann Bassler, 13 Seagate Road** Proposing to replace an existing deck with a new deck and stairs and perform related site development activities within regulated areas. The subject property is on the south side of Seagate Road approximately 350 feet south of its intersection with Boston Post Road, and is shown on Tax Assessor's Map #53, as Lot #51 in the R-1/2 Zone.

The following motion was made: That the Commission waive the process of reading the entire resolution aloud because each member has received the draft resolution prior to the meeting and had an opportunity to review it. The motion was made by Mr. Bigelow, seconded by Mr. Spain and unanimously approved.

The following motion was then made: That the Commission adopt the following resolution to approve the project with conditions and stipulations:

**PLANNING AND ZONING COMMISSION  
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Application Number: Coastal Site Plan Review #183  
Flood Damage Prevention Application #194

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Street Address: 13 Seagate Road

Tax Assessor's Map #53 Lot #51

Name and Address of Applicant & Property Owner: Sara Ann Bassler  
13 Seagate Road  
Darien, CT 06820

Activity Being Applied For: Proposing to replace an existing deck with a new deck and stairs and perform related site development activities within regulated areas.

Property Location: The subject property is on the south side of Seagate Road approximately 350 feet south of its intersection with Boston Post Road.

Zone: R-1/2

Date of Public Hearing: June 24, 2003

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices  
Dates: June 12 & 19, 2003

Newspaper: Darien News-Review

Date of Action: July 8, 2003

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
July 17, 2003

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application includes a proposal to replace an existing deck at the rear of the residence with a new deck, supporting structure and footings, and stairs and perform related site development activities within regulated areas. The new deck will be slightly larger and have

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a different orientation to the water. There is no change to the existing grades on the property.

2. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
3. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
4. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
5. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
6. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
7. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
8. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #183 and Flood Damage Prevention Application #194 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
  - Addition and Renovation for John & Sally Bassler 13 Seagate, Proposed Deck Plans by JHT Designs, dated May 15, 2003, Drawing No. A1.
  - Survey of Property for Sara Ann Bassler 13 Seagate Road, by Peter Myer Co. Revised May 7, 2003. With additional notes provided by JHT Designs.
- B. Accompanying the Zoning and Building Permit applications and prior to commencing construction of the deck, more detailed drawings of the flood damage prevention anchoring designs shall be submitted along with certification from a licensed architect and/or engineer, that verifies that the final designs of the deck comply with the applicable requirements. Upon completion of the deck, the applicant shall provide written certification from the architect and/or engineer that the construction has been completed in accordance with the approved plans and the flood damage prevention requirements.

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- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- F. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (July 7, 2004). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan as approved shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

The motion was made by Mr. Kenny, seconded by Mrs. Forman and unanimously approved.

Chairman Damanti read the following agenda item:

**Amendment of Land Filling Application #53-A, Guerrera Construction Company, 80 High School Lane.** Proposal for an amendment of the existing Special Permit to allow the periodic use of a portable recycling plant (crusher) to process existing material on-site. Subject property is located on the north side of High School Lane approximately 1200 feet west of its intersection with Middlesex Road, and is shown on Tax Assessor's Map #9 as Lots #80 and #81, R-2 Zone.

Mr. Kenny noted that the application has been submitted by the subcontractor with the consent of the High School Building Committee. He said that in the future it would be appropriate to have all applications be submitted by the High School Building Committee, not by any subcontractor.

The following motion was made: That the Commission waive the process of reading the entire resolution aloud because each member has received a copy of the draft resolution prior to the meeting and has had an opportunity to review it. The motion was made by Mr. Bigelow, seconded by Mr. Spain and unanimously approved.

The following motion was made: That the Commission adopt the following resolution to approve the requested amendment subject to the conditions and stipulations as contained in the resolution:



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ADOPTED RESOLUTION  
July 8, 2003**

Application Number: Amendment of Land Filling and Regrading Application #53-A(2)

Tax Assessor's Map #9, Lots #80, #81  
Property Location: 80 High School Lane

Name and Address of Applicant: Ron Martin, Project Coordinator  
And Applicant's Representative: Guerrera Construction Company Inc.  
154 Christian Street  
Oxford, CT 06478

Name and Address of Property Owner: Darien Board of Education  
2 Renshaw Road  
Darien, CT 06820

Activity Being Applied for: An amendment of the existing Special Permit to allow the periodic use of a portable recycling plant (crusher) to process existing material on-site.

Property Location: The subject property is located on the north side of High School Lane approximately 1200 feet west of its intersection with Middlesex Road.

Zone: R-2

Date of Public Hearing: June 24, 2003

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices  
Dates: June 12 & 19, 2003

Newspaper: Darien News-Review

Date of Action: July 8, 2003

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:  
July 17, 2003

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the size, nature, and intensity of the proposed activities are described in detail in the application materials, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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Following careful review of the submitted application materials and related analyses, the Commission finds:

1. On December 13, 2001, a land filling and regrading application was approved for grading, excavation, and earth removal activities in connection with a proposal to construct a new Darien High School, and to modify existing playing fields and regrade throughout the entire site to construct new drives, playfields and parking areas. One of the conditions in the Commission's December 13, 2001 approval was Condition F, which reads as follows:  
*F. As noted in Section 856 of the Darien Zoning Regulations, no processing, sorting, crushing, mixing, fabrication or other similar activities shall be engaged in or be operated on the site.*  
This proposal is a request to amend that land filling approval for a second time to allow the periodic use of a portable recycling plant (hereinafter referred to as "crusher" or "rock crusher") to process existing material on-site.
2. In January/February 2003, the applicant requested that a rock crusher be allowed on-site four times during the construction project—Winter 2003; Fall 2003; Spring 2004; and Summer 2005. The duration of use each of those periods would not exceed three (3) weeks. That application was granted in part and denied in part. The only rock crushing allowed was in Winter (February/March) 2003. A specific condition of the Commission's February 11, 2003 resolution was that any further requests to use a rock crusher on-site be submitted as formal applications before the Planning & Zoning Commission. This application is in response to that condition, and is in lieu of any request for crushing in Fall 2003. Any requests beyond this proposed July/August 2003 use will need a subsequent application before the Commission.
3. Currently, there is about 3000-4000 cubic yards of excavated material stockpiled on the site. In its present condition, this material is unsuitable for use as backfill material around the foundations and/or for regrading the site. The off-site processing of this material would result in approximately 185-250 truck trips (assuming an average of 16 cubic yards per truck) to remove the material, and about the same number of trips to bring back a comparable amount of material to use as backfill and for regrading. Thus, the applicant has requested to process that material on-site.
4. The location of the rock crusher, the nature and intensity of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that, if the crushing operation is conducted in the manner described to the Commission and with the appropriate controls on dust, noise, hours of operation, and limited duration, then the application is in harmony with the orderly development of the district in which it is located.
5. The location and nature of the proposed activities are such that the use of the crusher will not hinder or discourage the appropriate development and use of adjacent land and buildings, or materially impair the value thereof.
6. The elements of the Site Plan as revised accomplish the objectives for Site Plan approval

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as specified in subsections 1024-1025 of the Darien Zoning Regulations.

7. The design, location, and specific details of the proposed grading, excavation and earth removal activities will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
8. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
9. The Commission is satisfied that proper provision has been made to control: ground stability, including the prevention of soil erosion and earth slides; storm water runoff; pollution, siltation and stream erosion; flying dust and erosion by wind; conservation of the fertility of existing topsoil; and the preservation of significant trees, vegetation and other natural resources.

NOW THEREFORE BE IT RESOLVED that Amendment of Land Filling & Regrading Application #53-A(2) is hereby granted with the foregoing and following stipulations, modifications and understandings for use of the rock crusher in July/August 2003.

- A. The location of the portable recycling plant (crusher) shall be in accordance with the following plans submitted to the Commission:
  - Sedimentation & Erosion Control Plan – Phase 1, Darien High School, by Herbert S Newman and Partners, scale 1"=60', dated 08/30/02, Sheet C5.00. This plan has written notations showing the location of the Processing Site for June 2003 in yellow.
  - Sedimentation & Erosion Control Plan – Phase 2, Darien High School, by Herbert S Newman and Partners, scale 1"=60', dated 08/30/02, Sheet C5.10. This plan has written notations showing the Processed Material Stockpile Area for June 2003 in green.
- B. The Commission at this time is only granting a permit to use the rock crusher for a maximum three-week (15 consecutive working days) time period in July and/or August 2003. The applicant shall notify the Planning and Zoning Department prior to the scheduled start date. By August 29, 2003, all crushing and processing operations at the site shall cease and shall not be resumed unless and until an additional permit is obtained. The crusher and all support equipment shall be promptly removed from the site.
- C. During the temporary operation of the crusher, the applicant must control the noise and dust and must abide by the time limitations of this permit. Dust control is not limited to the water spray system in the equipment. Dust from the entire crushing operation (from the existing stockpile to be picked up, the movement of the loader machine to the crusher, the actual crushing, to the new stockpile of the crushed and processed material) must be properly controlled.
- D. During the use of the rock crusher, testing reports on noise and dust shall be submitted on a weekly basis to the Planning and Zoning Department and the Darien Health Department. Noise

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tests by an engineer or someone trained in the use of a decibel meter shall be done both adjacent to the crusher, and 100 (one-hundred) feet away.

- E. The approved hours of operation for the rock crusher are: 8am-4pm Monday through Friday. Although the crusher can be “warmed up” as early as 7:45am, it shall not crush rocks before 8am. No Saturday hours are approved.
- F. A water spray system shall be in use at all times with the rock crusher in order to minimize and control dust. The applicant is responsible for complying with all applicable OSHA, MSHA, and Clean Air Management Permits and requirements. Any required reports that need to be filed with those agencies regarding the use of the crusher shall also be filed in the Planning and Zoning Department. A contact phone number for OSHA and MSHA shall be filed with the Planning and Zoning Department prior to use of the crusher.
- G. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

All provisions and details of the proposal to use a crusher on-site shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the approved plan by the Chairman.

The motion was made by Mr. Bigelow, seconded by Mr. Kenny and unanimously approved.

Chairman Damanti read the following agenda item:

**Land Filling & Regrading Application #98, Keith & Donna Gallo, 103 Hoyt Street.** Proposing to terrace and regrade the rear yard of the property and perform related site development activities. The subject property is on the east side of Hoyt Street, approximately 320 feet north of its intersection with Miller Road, and is shown on Tax Assessor’s Map #29, as Lot #44, in the R-1/2 Zone.

The following motion was made: That the Commission waive the process of reading the entire resolution aloud because each member has received a copy of the draft resolution prior to the meeting and has had an opportunity to review the draft. The motion was made by Mr. Bigelow, seconded by Mr. Kenny and unanimously approved.

The following motion was made: That the Commission adopt the following resolution to approve the project with conditions and stipulations:

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**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 8, 2003**

Application Number: Land Filling and Regrading Application #98

Tax Assessor's Map #29 Lot #44

Name and Address of Property Owner: Keith & Donna Gallo  
And Applicant: 11 Cherry Street  
Darien, CT 06820

Activity Being Applied For: Proposing to terrace and regrade the rear yard of the property and perform related site development activities.

Property Location: The subject property is on the east side of Hoyt Street, approximately 320 feet north of its intersection with Miller Road.

Zone: R-1/2

Date of Public Hearing: June 24, 2003

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices  
Dates: June 12 & 19, 2003

Newspaper: Darien News-Review

Date of Action: July 8, 2003

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:  
July 17, 2003

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

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1. The proposal is to terrace and regrade the rear yard of the property and perform related site development activities.
2. The Environmental Protection Commission approved this project as part of EPC application #51-2003 on June 4, 2003. That approval is hereby incorporated by reference.
3. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling Application #98 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The filling and regrading shall be in accordance with the following plans submitted to the Commission, entitled:
  - Site Plan prepared for Keith Gallo Donna M. Gallo, 103 Hoyt Street, scale 1"=20', prepared by John R. Martucci, PE., dated May 12, 2003.
- B. The EPC, as part of its application approval, required a \$500 performance bond to ensure that the required plantings within the regulated area are completed in accordance with the approved plan. Thus, there is no need for the Planning and Zoning Commission to require an additional bond.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right to modify, suspend, or revoke the permit as it deems appropriate.
- E. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- F. This permit shall be subject to the provisions of Section 858 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (July 7, 2004). This may be extended as per Section

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858.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

The motion was made by Mr. Bigelow, seconded by Mr. Spain and unanimously approved.

**Land Filling & Regrading Application #99, Brad & Serena Bowman, 83 Buttonwood Lane.**  
Proposing to regrade the existing sloped lawn and create a more level area on the east side of the house and perform related site development activities. The subject property is located on the north side of Buttonwood Lane approximately 250 feet east of its intersection with Mansfield Avenue and is shown on Tax Assessor's Map #5 as Lot #2, R-1 Zone.

The following motion was made: That the Commission waive the process of reading the entire resolution aloud because each member has received a copy of the draft resolution prior to the meeting and has had an opportunity to review it. The motion was made by Mr. Bigelow, seconded by Mr. Spain and unanimously approved.

The following motion was made: That the Commission adopt the following resolution to approve the project with conditions and stipulations:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 8, 2003**

Application Number: Land Filling and Regrading Application #99

Tax Assessor's Map #5 Lot #2

Name and Address of Property Owner: Brad & Serena Bowman  
And Applicant: 83 Buttonwood Lane  
Darien, CT 06820

Activity Being Applied For: Proposing to regrade the existing sloped lawn and create a more level area on the east side of the house and perform related site development activities.

Property Location: Subject property is located on the north side of Buttonwood Lane approximately 250 feet east of its intersection with Mansfield Avenue.

Zone: R-1

Date of Public Hearing: June 24, 2003

Time and Place: 8:00 P.M. Room 206 Town Hall

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Publication of Hearing Notices

Dates: June 12 & 19, 2003

Newspaper: Darien News-Review

Date of Action: July 8, 2003

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:  
July 17, 2003

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to lower the ground level around the house and to regrade the existing sloped lawn and create a more level area on the east side of the house and perform related site development activities.
2. The Environmental Protection Commission approved this project as part of EPC application #63-2003. That approval is hereby incorporated by reference.
3. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling Application #99 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The filling and regrading shall be in accordance with the following plans submitted to the Commission:
  - Bowman Residence Buttonwood Lane by Ungemack-McCool Landscape Assoc., scale 1"=8', dated 4-21-03.
- B. Due to the minor nature of the project, the provision of a Performance Bond is hereby waived.



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- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right to modify, suspend, or revoke the permit as it deems appropriate.
- E. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- F. This permit shall be subject to the provisions of Section 858 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (July 7, 2004). This may be extended as per Section 858.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

The motion was made by Mr. Kenny, seconded by Mr. Bigelow and unanimously approved.

Mr. Spain then excused himself from the meeting and departed at 9:05 p.m.

Chairman Damanti read the following agenda item:

**Proposed Correction/Readoption of Town Zoning Map, Five Mile River Road/Old Farm Road area.** Effective July 25, 1999, the Darien Planning and Zoning Commission adopted a new Zoning Map generated by the Town's Geographic Information System (GIS). The intent of that map was to re-adopt the Zoning Map that was in effect at the time, with the only change being the deletion of the Planned Retail Business Zone. Recently, one minor error was discovered in that GIS-generated map, the zone line extending south from Tokeneke Road to just beyond Old Farm Road, to the south and west of Five Mile River Road. This zone line is the boundary between the R-1/2 Zone and the R-1 Zone. The error extended the R-1 Zone too far to the east. This affects about seven lots on Tax Assessor's Map #66. This application proposes to readopt the corrected GIS map and restore the zone boundary to match its longtime location.

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Mr. Bigelow noted that the Zoning Map that has been generated by the Geographic Information System (GIS) is printed by computer and is currently adopted as the official Zoning Map for the Town. The Public Hearing had been held to discuss correcting the GIS computer generated map to make sure it matches the old hand drafted Zoning Map. The Commission also discussed the method of making the maps and the policies that has been used in determining the zone boundary lines. Mr. Spain noted that the first step for the Commission is to determine where was the line on the old zoning map immediately preceding the adoption of the GIS computer generated map. Was the zone boundary line on the property or was it 300' from the Old Farm Road right of way? Mr. Damanti said that all of the zoning maps from 1966 forward seem to indicate a 300' dimension from the street right of way along Five Mile River Road, but no specific dimension from the right of way of Old Farm Road. He said that it appears to be 300' from Old Farm Road and if the Commission wants to make the zone line coincident with the lot line, then such an action would require a new Public Hearing because it would appear to be different from the old Zoning Map.

Mr. Spain noted that the old map showed the 300' distance from Five Mile River Road to the zone line, but no number is specified for Old Farm Road to the zone line. There is no dimension on the map specified from Old Farm Road to the zone line. Mr. Kenny said that it is possible that no one wrote in the 300' dimension from Old Farm Road to the zone line because it was known that it was not 300' from the street right-of-way edge to the property line and the intent might have been to have the zone boundary on the property line. Mrs. Forman asked why the Commission should not make the zone line coincident with the lot line at this time. Commission members noted that in order to take such an action the Commission would need to find that the old zoning maps clearly show the zone line to be on the property line. The Legal Notice and the purpose of the Public Hearing was to correct the GIS computer generated map, not to establish a new location for the zone line.

Mr. Spain said that clearly a mistake was made when the GIS map was created and adopted and the question for the Commission is "Where was the zone line before the GIS map was created?" The intent is to put the zone line back to that original location. He said that if there is a better place to put the zone line, then the Commission should relocate the zone line to that better place, but could only do so by following proper procedure.

Mr. Damanti said that other areas in town may also need adjustment also and that as part of the 2003 Amendment of the Town Plan of Development, it would be appropriate to mention having the zone lines follow the property lines as much as possible, rather than flat distances from streets.

Mr. Kenny said the GIS computer generated map is clearly in error and it appears to him that the intent of the past Commissions was to have the zone line 300' from the street right of way of Old Farm Road. He said that the GIS map should be corrected to show the zone line 300' from the right of way line (not on the property line), but that the Commission should consider conducting another Public Hearing to adjust the zone line so that it does coincide with the property line.

The following motion was made: That the Planning and Zoning Commission finds that the 1992 Town Zoning Map shows that the zone boundary between the R-1/2 and the R-1 Zone is 300' to the west of the right of way of Old Farm Road and that the readopted GIS computer generated map has an error, and placed the line too far to the east. It is appropriate to correct the Zoning Map so that the zone boundary is properly located 300' to the west of the right of way of Old Farm Road as

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shown on the submitted and plan. This map revision shall become effective on July 27, 2003 and shall show the 300' dimension between the street right of way and zone boundary line. The motion was made by Mr. Kenny, seconded by Mr. Bigelow and unanimously approved.

The effective date of the correction/amendment/re-adoption shall be July 27, 2003 at 12:00 noon. The motion was made by Mr. Bigelow, seconded by Mr. Kenny and unanimously approved.

The Commission members agreed that it was appropriate that the rezoning of the boundary between the R-1/2 and the R-1 Zone along Five Mile Road and Old Farm Road be reexamined and that further information be presented to the Commission at a Public Hearing in September of 2003 regarding the possible readjustment of the zone line.

Chairman Damanti read the following agenda item:

**Land Filling & Regrading Application #92-A, Nancy C. Hooper, 51 Old Farm Road.** Proposing to install a swimming pool and to place fill and regrade a portion of the property and perform related site development activities. The subject property is on the west side of Old Farm Road, approximately 250 feet north of its intersection with Searles Road, and is shown on Tax Assessor's Map #66, as Lot #97, in the R-1/2 Zone.

The Commission members discussed the fact that the previous ruling regarding the Zone boundary line results in the conclusion that the proposed Hooper pool location does not comply with the 40' setback requirement from the rear lot line which is in the R-1 Zone. Since the proposed pool does not comply with the setback requirements, and since the variance request for a setback variance was recently denied by the ZBA, the Commission cannot approve the requested swimming pool. The application before the Commission is actually for the filling and regrading, terracing and landscaping work that would be located between the pool and the property line and would be located within 15' of the property line. The Commission members concluded that if the pool was not being built, then it is not logical to approve the proposed filling and regrading since they would need to bring in fill to the site and there would be no purpose for the proposed filling and regrading at this time. The Commission agreed that it would be appropriate to have the staff draft a resolution for review and action at the July 22nd meeting. The draft resolution should summarize the aforementioned reasons why the Commission cannot approve the application for filling and regrading.

**Approval of Minutes**

*May 27, 2003                      Public Hearing/General Meeting*

The Commission discussed the draft minutes and noted that there were a number of corrections and clarifications to be made on pages 3, 5, 6, 10, and 12. They asked the staff to revise the minutes and to redistribute them for reconsideration at a future meeting.

*June 10, 2003                      General Meeting*

Minor typographical errors were discussed and the Commission all agreed that they should be changed. The following motion was made: That the Commission adopt the corrected minutes. The motion was made by Mr. Kenny, seconded by Mrs. Forman and unanimously approved.

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**Other Business**

Mr. Ginsberg informed the Commission that Certificates of Occupancy for the first units within the Avalon Bay affordable housing project are about to be issued. He said that the only modifications necessary to the site conditions were the slight relocation of the barbeque areas. He said that this was handled administratively and the Commission members agreed.

**Discussion Regarding Town Plan of Conservation & Development**

Update on the status of a proposed survey/questionnaire, and other items related to the Town Plan.

The Committee members discussed the possibility of having a questionnaire being distributed to the entire community so that the Commission can get a better idea of the concerns and priorities of the citizens. No formal action was taken by the Commission regarding this matter.

There being no further business, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

David J. Keating  
Assistant Director of Planning

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